IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

Bail Appl..No. 4046 of 2007()

CC.327/2003 of J.M.F.C.,PARAVUR
CRIME NO.159 OF 2002 OF VARAPUZHA POLICE STATION

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: PETITIONERS

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1. T.S.SUBASH, AGED 33 YEARS,
S/O. SREENIVASAN, THERUVILPARAMBIL HOUSE,
PIZHALA P.O.

2. T.B.SUBRAMANYAN, AGED 34 YEARS,
S/O. BABU, THERUVILPARAMBIL HOUSE,
PIZHALA P.O.

BY ADV. SRI.K.R.VINOD

RESPONDENTS:

STATE OF KERALA, REP. BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4046 of 2007

Dated this the 5th day of July, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 and 2. They face indictment in a prosecution, inter alia, for the offence punishable under Section 326 I.P.C. They had entered appearance and were enlarged on bail. They could not appear before the learned Magistrate either personally or through counsel on a given date of posting. Consequently, warrants of arrest have been issued against the petitioners by the learned Magistrate .

2. The learned counsel for the petitioners submits that the petitioners are innocent. Their absence was not wilful. They are willing to appear before the learned Magistrate and co-operate for the expeditious disposal of the case. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. Therefore it is prayed that directions under Section 438 and/or 482 Cr.P.C may be issued in favour of the petitioners.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate

would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This bail application is, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-